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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Ed A. Wilson, Inc.

File: B-244634

Date: July 12, 1991

Terry L. Salazar, Esq., Winstead Sechrest & Minick, for the protester.
Catherine M. Evans, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Failure of bid to include signed certificate of procurement integrity is a material bid deficiency requiring that it be rejected as nonresponsive; argument that failure to sign certificate was a waivable minor informality is without merit, since applicable regulations require, without exception, rejection of bid that does not include signed certificate.

DECISION

Ed A. Wilson, Inc. protests the rejection of its bid under invitation for bids (IFB) No. GS-07P-91-HUC-0043, issued by the General Services Administration for building alterations. The agency determined Wilson's bid nonresponsive for failure to include a signed certificate of procurement integrity. Wilson asserts that the rejection was improper because the certificate was filled in and lacked only a signature.

We dismiss the protest.

The IFB contained the certificate of procurement integrity at Federal Acquisition Regulation (FAR) § 52.203-8, required by the Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C.A. § 423(e)(1) (West Supp. 1990). Wilson's bid included a certificate which had been filled in with the name of the individual responsible for the preparation of the bid, the name of the firm, the solicitation number and the date, but was unsigned. On June 21, 1991, Wilson was notified that its apparent low bid had been rejected as nonresponsive for failure to include a signed certificate.

A responsive bid is one that unequivocally offers to provide the exact thing called for in the IFB, such that acceptance of the bid will bind the contractor in accordance with all the

IFB's material terms and conditions. Mid-East Contractors, Inc., B-242435, Mar. 29, 1991, 70 Comp. Gen. ___, 91-1 CPD ¶ 342. The procurement integrity certification requirement is such a material term because it imposes substantial legal duties on the bidder, and without completion of the certificate, the bidder's commitment to the obligations is unclear. Id. Accordingly, failure to complete the certificate is a material deficiency requiring that the bid be rejected as nonresponsive. Id.; FAR § 14.404-2(m).

Wilson contends that its bid was responsive because it contained a completed, albeit unsigned, certificate, and the bid itself was signed. In this regard, Wilson notes that FAR § 14.405(c) permits the contracting officer to waive a bidder's failure to sign a bid as a minor informality when the bid is accompanied by a document bearing the bidder's signature; since its unsigned certificate of procurement integrity was accompanied by a signed bid and bid bond, Wilson argues, the agency likewise should have waived the lack of a signature on the certificate as a minor informality.

Wilson's position is without merit. The FAR specifically provides for waiver of a bidder's failure to sign its bid under certain circumstances, see FAR § 14.405(c) and (f), but it does not provide for waiver of the signature requirement for the certificate of procurement integrity. Rather, FAR §§ 3.104-9(b)(3)(C) and 14.404-2(m) provide, without exception, that the certificate must be signed in order for the bid to be considered responsive. Consistent with these regulations, we have held that the signature on the bid itself is not a valid substitute for the required signature in the certification provision; the absence of the required signature calls into question the bidder's commitment to the substantial legal obligations--which go beyond the bidder's obligation to perform the work covered by the contract--the certificate imposes. McGuire Refrigeration, Inc., B-242754, May 31, 1991, 91-1 CPD ¶ ____.

We conclude that the agency properly rejected Wilson's bid as nonresponsive; accordingly, the protest is dismissed.



John M. Melody
Assistant General Counsel